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Opinion

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CONCORD, N.H.

Mr. Ernest L. Sherman
Executive Director
Planning and Development Commission
Room 201, State House Annex
Concord, New Hampshire

Dear Mr. Sherman:

This is in response to your letter of August 20 requesting our opinion as to whether the Planning and Development Commission may delegate to one or more members of the Commission, or to the Commission staff, the duty imposed by laws of 1955 318:2 to hold public hearings in towns contiguous to Pawtuckaway Lake prior to making recommendations to governor and council as to the use and disposition of certain lands owned by the state in the town of Nottingham.

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(notation by
my A)

Laws 1955. 318:2 reads as follows:

"318:2 Public Hearing. The planning and development commission shall hold at least one public hearing in the towns contiguous to the lake after due notice of such meeting has been posted for at least seven days in the town hall of such town."

The section just quoted clearly makes it the duty of the Planning and Development Commission to hold these hearings. Had the legislature desired to make provision for delegation of this duty it could easily have done so as was done in the case of the delegation of the duty to hold certain hearings by the Public Utilities Commission (RSA 363:16, 17).

This should not be confused with the question of delegation of ministerial acts by administrative officers to responsible subordinates. The duty imposed upon the Planning and Development Commission cannot, however, be said to constitute a ministerial function. The legislature obviously intended that the Commission with its recognized interest in the development of recreation (RSA 12:4) and its specialized knowledge in relation thereto, should conduct the hearing as a body.

Very truly yours,

Elmer T. Bourque
Assistant Attorney General

ETB/m